

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JILLIAN FORTE,

Plaintiff,

-v-

MOUNT SINAI HEALTH SYSTEM, INC., et al.,

Defendants.

19 Civ. 2970 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On July 6, 2020, defendant Mount Sinai moved for an order of preclusion as an anticipatory discovery sanction against plaintiff Jillian Forte. Dkt. 49. On July 9, 2020, Forte filed an opposition. Dkt. 50. On July 10, 2020, Mount Sinai moved for a discovery conference. Dkt. 51.

The Court declines to determine at this time whether to impose any discovery sanctions on Forte and if so, what form those sanctions should properly take. If it is later established that Forte has breached her discovery obligations, depending on the circumstances, the preclusion sanction sought by Mount Sinai may or may not be appropriate; alternative sanctions could potentially consist of shifting the cost of discovery expenditures incurred by Mount Sinai on account of Forte's established discovery breaches, or an adverse-inference instruction at trial. The Court will be in a better position to determine what, if any, relief along these lines is merited following completion of the ongoing review of materials pursuant to the parties' agreed upon ESI protocol. The Court accordingly denies Mount Sinai's motion without prejudice and denies the request for a discovery conference. The Clerk of Court is respectfully directed to terminate the motions pending at Dkts. 49 and 51.

SO ORDERED.


PAUL A. ENGELMAYER

United States District Judge

Dated: July 17, 2020
New York, New York